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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/086,139	02/26/2002	Nobuyoshi Kishida	1232-4826	4157
27123	7590	02/12/2004	EXAMINER	
MORGAN & FINNEGANT, L.L.P. 345 PARK AVENUE NEW YORK, NY 10154			SANDERS JR, JOHN R	
		ART UNIT		PAPER NUMBER
		3737		8

DATE MAILED: 02/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/086,139	KISHIDA ET AL.	
	Examiner	Art Unit	
	John R. Sanders	3737	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM
 THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 15 December 2003.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-5, 7 and 9-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-5, 7, 9-17, 19 and 20 is/are rejected.
- 7) Claim(s) 18 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 26 February 2002 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

Claim Objections

1. Claim 18 is objected to because of the following informalities: The claim is dependent upon cancelled claim 6. Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. **Claims 1, 2, 5, 7, 16, 17, 19 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by *Kishida et al.***
4. Regarding claims 1, 2, 7 and 20, *Kishida* discloses an eye fundus blood flow meter with image pickup, display and laser measurement means. *Kishida* discloses a tracking control means for changing a measurement state (col. 3: 5-14). The display state is changed in accordance with the measurement state during image rotation (col. 6: 7-32). *Kishida* discloses displaying a fundus image on a display **56** and calculation results on a display unit **64** (col. 4: 25-54). A broad interpretation of the limitation “display means” incorporates a display having more than one screen or display component.
5. Regarding claim 5 and 19, *Kishida* discloses a signal input means as start-stop switch **88**. It is inherent that the signal input means changes the state of the display, i.e., from not showing data prior to the measurement to showing data during the measurement.
6. Regarding claims 16 and 17, *Kishida* discloses changing the display state based on the position of the beam (col. 6, lines 7-47).

Claim Rejections - 35 USC § 103

7. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
8. **Claims 3, 4 and 9-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Kishida et al.* in view of U.S. Patent No. 4,952,050 to *Aizu et al.***
9. Regarding claims 3, 4, 12 and 13, *Kishida* discloses a CCD sensor that picks up an image enlarged more than the image on the television camera (col. 6: 41-47), but does not disclose expressly changing the size or zoom ratio of the eye fundus image. *Aizu* teaches that magnification of the eye fundus is desirable for proper laser beam placement in a blood flow meter (col. 17: 38 - col. 18: 9). It would have been obvious to one of ordinary skill in the art to zoom the image of the fundus during blood flow measurement in order to facilitate precise placement of the laser. It would further be obvious to zoom the image only when the beam position is determinable, thereby not limiting the scope of the display while determining the beam position.
10. Regarding claim 9, *Kishida* discloses the above limitations, but does not expressly disclose an illumination means in addition to the laser measurement means. *Aizu* teaches an observation light source apart from the measurement laser (FIG. 1). It would have been obvious to one of ordinary skill in the art include an observation light source for general illumination, as in *Aizu*.
11. Regarding claims 10 and 11, *Kishida* does not disclose expressly the display position or zooming ratio changeable to display the beam position in the center of the display area.

However, it would have been obvious to one of ordinary skill in the art to always ensure that, in a blood flow meter with a display device, the display is centered on the area of interest, i.e., the measurement laser beam and the blood vessel being measured.

12. Regarding claim 14, *Kishida* discloses displaying a fundus image on a display **56** and calculation results on a display unit **64** (col. 4: 25-54). A broad interpretation of the limitation “display means” incorporates a display having more than one screen or display component.

13. Regarding claim 15, *Kishida* discloses a signal input means as start-stop switch **88**. It is inherent that the signal input means changes the state of the display, i.e., from not showing data prior to the measurement to showing data during the measurement.

Response to Arguments

14. Applicant's arguments with respect to claim 9 (Paper No. 7, page 7, lines 8-14) fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claim defines a patentable invention without specifically pointing out how the language of the claim is patentably distinguishable from the references.

15. The Examiner notes that Applicant has chosen to not present a traversal on the merits for the dependent claims (see page 7 of the Amendment). Applicant is reminded of 37 CFR § 1.111 which requires Applicant to respond to each and every objection and rejection in the Office Action, and point out any errors with the objection or rejection. Knowingly withholding arguments for dependent claims that may be persuasive does not help expedite the prosecution.

Conclusion

16. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John R. Sanders whose telephone number is (703) 305-4974. The examiner can normally be reached on M-F 8:30 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dennis W. Ruhl can be reached on (703) 308-2262. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.



DENNIS W. RUHL
SUPERVISORY PATENT EXAMINER

Art Unit: 3737

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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